

**Final Questions and Answers:
PM2.5 Nonattainment Areas with Multiple MPOs**

June 15, 2005

Scenario 1: A PM2.5 nonattainment area in one or more states contains three MPOs. This nonattainment area does not have an adequate or approved PM2.5 SIP budget.

1. Q. Do all the MPOs in the nonattainment area need to determine conformity every time one of the three MPO's wants to update or revise its plan or TIP?

A. Yes.

Section 93.124(d) of the conformity rule states that,

“Where a nonattainment area includes multiple MPOs, the control strategy SIP may either allocate emissions budgets to each metropolitan planning area, or the MPOs must act together to make a conformity determination.”

As explained in Part 2, Q&A #3, of EPA's July 21, 2004, multi-jurisdictional area guidance (<http://www.epa.gov/oms/transp/conform/420b04012.pdf>), to satisfy the Clean Air Act and conformity rule requirements, conformity determinations and regional emissions analyses in multiple-MPO nonattainment areas must address the entire nonattainment area when there are no SIP budget(s). That is, before a SIP is submitted with budgets that are found adequate or approved, conformity determinations must be supported by a regional analysis that considers emissions from the entire area, and DOT must make all plan/TIP conformity determinations from the individual MPOs at the same time. If one MPO in Scenario 1 is unable to meet the conformity requirements for its plan and TIP, the other two MPOs in the area also cannot demonstrate conformity.

In nonattainment areas that include more than one MPO, Part 2, Q&A #4, of EPA's July 2004 guidance describes two ways in which MPOs can develop the regional emissions analysis for the area. The MPOs can:

- \$ conduct separate modeling for each of their plans and TIPs that is then compiled into one regional analysis; or
- \$ conduct one modeling analysis for the entire nonattainment area.

In either case, all the MPOs must use the same interim emissions test and analysis years for the regional emissions analysis to make the demonstration required by the conformity rule.

2. Q. If one of the MPOs in Scenario 1 wants to update its plan/TIP to add a new project (a change that would require a new regional emissions analysis), do the other two MPOs

also need to conduct a new emissions analysis, or can they simply re-submit their portion of the previous regional analysis to demonstrate conformity (assuming separate modeling was conducted for the previous analysis)?

A. The other two MPOs may be able to rely upon their previous regional emissions analyses for their respective conformity determinations, provided that each MPO can meet the requirements of §93.122(g). Section 93.122(g) of the conformity rule allows MPOs to rely on a previous emissions analysis for plan and TIP conformity determinations so long as the plan and TIP do not include additions or deletions of regionally significant projects, significant changes in the design concept and scope of existing regionally significant projects, or changes to the time frame of the transportation plan. Further, minor plan and TIP revisions under §93.122(g) must not include revisions that delay or accelerate the completion of regionally significant projects across conformity analysis years and cannot satisfy the three-year conformity update requirement. Section 93.122(g)(iv) also requires that previous emissions analysis must be consistent with §93.118 and/or §93.119 requirements, as applicable.

Section 93.122(g) of the rule specifically applies to individual plan and TIP conformity determinations, and not to the entire nonattainment area. As a result, MPOs within a multiple-MPO area can rely upon their portion of the previous regional emissions analysis for the entire nonattainment area provided they are not changing their plans and TIPs in a manner that would trigger a new analysis per §93.122(g).

In addition, Part 2, Q&A #4, of EPA's July 2004 guidance states that:

“New or revised plans and TIPs, as well as significant changes to projects, could require a new regional emissions analysis (see §§93.104 and 93.122(g) of the conformity rule). Coordination of plan and TIP update cycles among MPOs in the same nonattainment area may minimize the number of new regional emissions analyses and conformity determinations that have to be completed.”

Although this language does not specify whether a new analysis has to be conducted for the entire nonattainment area every time a plan/TIP conformity determination is made, it does acknowledge that in some cases a new analysis may not be necessary. In cases where an MPO is required to demonstrate conformity, but is not significantly changing its individual plan and TIP, the MPO may be able to rely upon §93.122(g) for their portion of the regional emissions analysis. The portions relying on a previous regional emissions analysis would then be combined with the new portion of the regional emissions analysis to demonstrate conformity. Note, however, if any portion of the regional emissions analysis relies on a previous analysis, the frequency requirements of §93.104(b) or (c) are not satisfied.

3. Q. If one of the MPOs wants to update its plan/TIP to add a new project (a change that would require a new regional emissions analysis), how do the other two MPOs in the

nonattainment area meet the public involvement requirements specified in the conformity rule, even though their plans and TIPs have not changed?

A. Since the other MPO's are only making new conformity determinations and are not making any changes to their plans and TIPs, the minimum public involvement requirements specified under §93.105(e) of the conformity rule would apply; requirements under DOT's transportation planning requirements, 23 CFR 450.316(b), would not apply in this case.

Section 93.105(e) of the conformity rule states:

“Affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process which provides opportunity for public review and comment by, at a minimum, providing reasonable public access to technical and policy information considered by the agency at the beginning of the public comment period and prior to taking formal action on a conformity determination for all transportation plan and TIPs, consistent with these requirements and those of 23 CFR 450.316(b).”

This provision requires every conformity determination to provide for public involvement that, at a minimum, allows for public review and comment. However, for conformity determinations that are not accompanied by a transportation planning action, an MPO would not need to satisfy the public involvement requirements under §450.316(b) of the planning regulations (including the requirement to hold a public hearing). Such transportation planning actions would include any change to a transportation plan, TIP, or project. In cases where MPOs are not conducting transportation planning actions, the MPO must satisfy only the minimum public involvement requirements stated in §93.105(e). For example, the MPO could provide a 30-day public comment period, but not a public hearing, to meet the rule's requirements.

Scenario 2: A PM_{2.5} nonattainment area in one or more states contains two MPOs: MPO A and MPO B. The area does not have an adequate or approved PM_{2.5} SIP budget and MPO A and B have chosen to compile their separate modeling results into one regional analysis for their respective conformity determinations, rather than conduct one analysis for the entire nonattainment area. MPO A has a transportation plan that extends from 2005 - 2025. MPO B has a transportation plan that extends from 2005 - 2030. Section 93.119(g)(1) requires that the last year of both transportation plans be analysis years when determining transportation conformity.

4. Q. How can MPO A estimate emissions for 2030, a year that is beyond the last year of its plan?

A. MPO A may obtain an estimate of emissions for 2030 by estimating VMT for the

year 2030 using 2030 planning assumptions (e.g., population, employment) on the 2025 network. In other words, they should estimate emissions for 2030 like they would for any other analysis year, with the exception that they would be assuming no changes to their highway and transit system after 2025. Interagency consultation should be used to determine the appropriate planning assumptions for 2030.

Alternatively, MPO A may choose to extend the planning horizon of its transportation plan to 2030 by revising or updating the plan. In this case, a new regional emissions analysis would be conducted in accordance with §93.119 requirements.

5. Q. Does MPO B need to perform a regional emissions analysis for 2025 or, since this is not the last year of its plan, can MPO B simply interpolate between two near term years (e.g., an interim year and 2030)?

A. MPO B needs to perform a regional emissions analysis for 2025; it cannot interpolate between two near term years to estimate emissions for the year 2025 in this case.

Section 93.119(g)(1) of the conformity rule states that “...The last year of the transportation plan’s forecast period must also be an analysis year.” As a result of this requirement, an MPO must run a regional emissions analysis for the last year of the transportation plan even though that year may not be the last year of its plan, but instead the last year of another MPO’s plan.

Regional emissions analyses for analysis years must cover the entire nonattainment area in these cases before adequate or approved PM_{2.5} SIP budgets are available. Therefore, MPOs within the same nonattainment area that have transportation plans that extend beyond that of another MPO must still estimate emissions for their portion of the regional emissions as detailed in §93.122 of the conformity rule.

Scenario 3: An MPO is composed of four counties. One of these counties is located in one PM_{2.5} nonattainment area (Area C), while the remaining three counties are located in another, adjacent PM_{2.5} nonattainment area (Area D). Both Areas C and D are multiple-MPO areas, consisting of at least two or more MPOs, including the MPO that is split between the two nonattainment areas. Neither nonattainment area has adequate or approved PM_{2.5} SIP budgets. The MPO that is split between the two nonattainment areas wants to amend its plan and TIP to include new projects that are all located in Area D. No projects in Area C would be added, changed or deleted.

6. Q. Will this MPO’s plan and TIP update trigger a conformity determination in both Areas C and D?

A. No.

Clean Air Action section 176(c)(5) specifically states that conformity applies in nonattainment and maintenance areas. Therefore, an MPO that includes multiple nonattainment areas may determine conformity separately for each nonattainment area. In Scenario 3, the MPO can determine conformity for and advance only the portion of its TIP that lies within Area D. In such a case, if no projects are added, changed, or deleted in Area C, the conformity determination for that area would remain valid and would not need to be redetermined. Only the MPOs in area D would need to redetermine conformity in this case.